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Of Attorneys for Defendant Erik Kammerer

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

HANNAH AHERN,

Plaintiffs,

v.

ERIK KAMMERER; CITY OF PORTLAND;
and JOHN DOES 1-50,

Defendants.

No. 3:21-cv-00561-YY

**DEFENDANT ERIK KAMMERER’S
ANSWER TO PLAINTIFF’S AMENDED
COMPLAINT**

In answer to Plaintiff’s Amended Complaint, Defendant Kammerer (“Defendant”) admits, denies, and alleges as follows:

Plaintiff’s introductory remarks are improper and contain characterizations and legal conclusions to which a response is not required. To the extent a response is required, Defendant denies all statements in the introduction and specifically denies all characterizations of Defendant Kammerer, his motivations, and actions.

JURISDICTION

1. Defendant admits this Court has jurisdiction over Plaintiff's federal claims and pendant jurisdiction over Plaintiff's state law claims.

VENUE

2. Defendant admits venue is proper.

PARTIES

3. Defendant admits he is employed as a detective by the Portland Police and that the Portland Police serve as law enforcement for the City of Portland.

FACTUAL ALLEGATIONS

4. Defendant admits that the Proud Boys and Patriot Prayer are organizations that have held rallies and marched in Portland, Oregon and other areas. Defendant otherwise lacks information or knowledge regarding Plaintiff's allegations related to those groups and specifically denies showing favoritism to any perspective or viewpoint.

5. Defendant admits that the Portland Police have declared assemblies unlawful, ordered people to disperse, and used various tactics to disperse people who refused to heed lawful dispersal orders.

6. Defendant admits that on August 17, 2019 people gathered in downtown Portland. Defendant further admits that he was employed as a detective by the Portland Police, assigned to the Rapid Response team at that time, and wore bag number 67.

7. Defendant admits that on that date he was near the corner of SW Oak St. and SW 3rd and observed Plaintiff obstructing traffic. Defendant further admits that he saw Plaintiff spit at police.

8. Defendant admits that he had probable cause to arrest Plaintiff for disorderly conduct and directed bicycle officers to arrest her. Defendant lacks information or knowledge as to the details

of her arrest. Defendant admits that ultimately she was not prosecuted.

9. Except as specifically admitted herein in paragraphs 1 through 8 above, Defendant denies each and every remaining allegations of Plaintiff's Complaint and the whole thereof.

FIRST DEFENSE

(Failure to State a Claim)

10. Plaintiff fails to state a claim for relief under federal or state law.

SECOND DEFENSE

(Qualified Immunity)

11. Defendant Kammerer is entitled to qualified immunity.

THIRD DEFENSE

(Failure to Mitigate)

12. Plaintiff failed to mitigate her damages, if any.

FOURTH DEFENSE

(Oregon Tort Claims Act)

13. Plaintiff's state law claims are subject to the privileges and immunities set forth in the Oregon Tort Claims Act, ORS 30.260 *et seq.* Plaintiff's damages are limited by the cap on damages set forth in the Oregon Tort Claims Act as to all state law claims.

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FIFTH DEFENSE

(Additional Defenses)

14. Defendant reserves the right to raise additional defenses that may become apparent during the course of discovery.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant prays for judgment in his favor, including an award of costs, disbursements and fees pursuant to 42 U.S.C. § 1988.

Respectfully submitted this 15th day of September, 2022.

HART WAGNER LLP

By: /s/ Carey Caldwell

Karen O'Kasey, OSB No. 870696
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Of Attorneys for Defendant Erik Kammerer

Defendant requests trial by jury on those issues properly submitted to a jury.

/s/ Carey Caldwell

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